Senate Bill 640-1,2 (As Introduced)

Topic: Creation of individual and family development accounts
Sponsor: Senator Thomas III
Co-sponsors: Senator Hardiman
Committee: Banking and Financial Institutions

Date Introduced: June 23, 2005

Date of Summary: July 1, 2005

The bill permits the establishment and maintenance of individual and family development accounts. The bill defines "Account holder" as a person who owns one of these accounts and is 18 years of age or older, a resident of this state, and a U.S. citizen or resident alien. The bill also defines a "Community development organization" as a charitable organization exempt from taxation under section 510 (c)(3), and approved by the director of the Department of Labor and Economic Growth (DLEG) or other designee to implement the individual or family development program.

The bill provides that the program shall provide eligible individuals and families with the opportunity to establish one of these accounts to be used to save for education, home ownership or improvements, or small business capitalization.

The bill provides that DLEG solicit proposals from community development organizations (CDO) to administer these accounts on a non-profit basis. The proposals must include:

- A requirement that the account holder match contributions of a community development organization by contributing cash or volunteer work.
- A process for account holders in decision making in regards to the investment of the money in their accounts.

DLEG shall consider all of the following when reviewing a proposal by a CDO:

- Non-profit status or the organization.
- The organizations fiscal accountability.
- The organizations ability to provide or raise money for matching contributions.
- The organizations ability to establish and administer a reserve fund.
- The significance and quality of proposed auxiliary services.
- The relationship of proposed auxiliary services to the goals of the account programs.

The bill requires that DLEG promulgate rules pursuant to the administrative procedures act of 1969 to administer this act.

The bill provides that any individual or family income whose household income is less than or equal to 200% of the federal poverty level for an individual or that family's family size, the opportunity to establish one of these accounts with a financial institution as defined in this bill. The account holder may use the account to accumulate and withdraw money without penalty for any of the following reasons:

- Educational expenses for the account holder or family member if the account is a family development account for postsecondary education at an eligible educational institution, as defined in this bill.
- First-time purchase of a primary residence by the account holder or any other eligible family member if the account is a family development account.
- Major repairs or improvements to a primary residence of the account holder or any qualified family member if the account is a family development account.
- Start-up capitalization of a small business for the account holder or any qualified family member.

An approved financial institution may accept deposits into these accounts. In doing so, the institution shall certify to DLEG and the CDO that administers the accounts that the accounts have been established pursuant to this bill and the deposits have been made on behalf of the account holder.

The bill requires that the financial institution, in which the account has been established, do all of the following:

- Keep the account in the name of the account holder and administrator that administers the account through a CDO.
- Permit deposits to be made into the account by the account holder and a contributor, as defined in this bill, if the deposit is made on behalf of the account holder.
- Provide that the accounts earn the market rate of interest.
- Permit the account holder to withdraw money from the account for any purpose listed in this bill.

The bill specifies that $2,500.00 is the maximum total of all deposits made into an account in a tax year that is exempt from taxation. $5,000.00 is the maximum account balance that is exempt from taxation. Accumulated interest does not apply. The bill provides that if any contribution that will cause the account to exceeds the maximum total in a tax year or maximum balance in an account, notification shall be provided to the account holder/contributor and the administrator of the CDO that administers the account by the financial institution. Any deposits that exceed specified maximums shall be returned to the contributor or be returned on a pro rata basis among multiple contributors.

Money withdrawn by an account holder not according to the purposes established in this bill shall be subject to the following:

- A penalty of 15% of the amount of withdrawal withdrawn during a tax year for first time offenses.

- A penalty of 15% of the amount withdrawn and the account closed and the money forfeited for a second offense.

The bill requires that interest earned on the account be distributed proportionately to the account holder and other contributors based on individual contributions. Any penalties or money forfeited shall be deposited into the individual or family development account reserve fund, as defined in this bill, of the CDO that administers the account.

The account holder must name at least one contingent beneficiary at the time the account is established for the purposes transferring the account in the event of the account holder's death. If the beneficiary is deceased, the money shall be transferred to his or her estate.

Any money deposited or withdrawn by an account holder is exempt from taxation under the income tax act of 1967 and the single business tax act of 1975. Interest earned by a family development account is exempt from taxation pursuant to the income tax act of 1967. The bill also permits a contributor to deduct the amount of contributions made to accounts from the taxpayer's tax base as determined under section 9 of the single business tax act of 1975.

The bill requires that the administrator of the CDO provide the names of the contributors and the amounts that each contributor contributed to a family development account reserve fund each tax year to DLEG with cooperation of the participating financial institution. The director of DLEG shall set a deadline by which this information must be submitted. Secondly, DLEG shall submit verification or qualified tax credits claimed pursuant to this act to the department of treasury.

Senate Bill 641 amends the "Single business tax act of 1975" by adding section 35d to the act by providing credits for business contributions to an individual development account.

The bill allows a taxpayer to claim a credit against the tax imposed equal to the total of the following amounts:

- A taxpayer contribution to an individual or family development account that does not exceed the maximum allowable contribution.
- If the taxpayer is not an account holder, contributions made to the reserve fund of a community development organization administering an individual or family development account.

The bill provides that if any used or unused credit carries forward and exceeds the tax liability of the taxpayer for that year, a refund for the excess will not be permitted. However, for a period of not more than 10 tax years, the credit may be used to offset future tax liabilities unless the credit is used up.

The bill also allows a taxpayer to make an irrevocable assignment of any or all of his or her credit. But the taxpayer is not permitted to make a subsequent credit assignment.

Senate Bill 642 amends the "Income tax act of 1967" by adding section 272 to provide for credit of contributions to individual or family development accounts.

The bill allows a taxpayer to claim a credit against the tax imposed equal to the total of the following amounts:

- A taxpayer contribution to an individual or family development account if that taxpayer is the account holder and that contribution does not exceed $2,500.00 that tax year.
- Interest earned in an account established by the taxpayer.
- If the taxpayer is not an account holder, contributions made to the reserve fund of a community development organization administering an individual or family development account.

The bill provides that if any used or unused credit carries forward and exceeds the tax liability of the taxpayer for that year, a refund for the excess will be permitted.

Senate Bills 640, 641, and 642 are all tie-barred.